

Applicant : Michel Lesimple  
Serial No. : 09/648,588  
Filed : August 25, 2000  
Page : 3

Attorney's Docket No.: 10767-003001 / 870-F 51299-  
La/

DRAFT

35. The system of claim 30 or 32 wherein the interference arm is pivotable with respect to the stirring head.

51. The system of any one of claims 15, 16 or 29 wherein the head is connected to a hollow shelf arranged above the paint can cover.

### REMARKS

The undersigned attorney met with Primary Examiner Cooley at the USPTO on January 21, 2003, to discuss the status of the present reissue application. Tentative agreement was reached, subject to further review by the USPTO, as well as client authorization, on a specific approach to define over U.S. patent No. 5,096,071 to Neri. That approach is embodied now in independent system claims 15 and 29 proposed by this draft supplemental amendment.

The other independent claim sets, other than the original patent claims, would be cancelled by the proposed amendment, namely claims 38-50, inclusive.

In addition to distinguishing over Neri, the proposed amendment addresses all of the indefiniteness points still raised by the Examiner Cooley following the first supplemental amendment filed in November 2002. With respect to the drawing issue raised by the Examiner, the specification has been amended to clarify that the view in FIG. 2 also illustrates the single interference arm embodiment referred to in the claims and in the specification at column 4, lines 1-4 of the specification.

The surrender of the original Letters Patent and filing of a revised supplemental reissue oath or declaration are formalities that will be attended to swiftly upon approval of the draft supplemental amendment.

#### The Changes to Claims 15 and 29 to define over Neri

Neri discloses a thin metal housing formed of a single "contoured plate" (Col. 2, line 21 of Neri) that acts as a guide for insertion and restraining of the covered can on the shelf. In particular, the plate has a bent portion 2 comprising a slant portion 2" and a horizontal portion 2'. For each can location, an opening 5 is formed in the housing through the slant portion 2" and horizontal portion 2'. Each opening has two regions: an upper region, portion 5', as shown in

Applicant : Michel Lesimple  
Serial No. : 09/648,588  
Filed : August 25, 2000  
Page : 4

Attorney's Docket No.: 10767-003001 / 870-F 51299.  
La/

# DRAFT

Fig. 1, formed through the slant portion 2"; and a lower region 5" formed in the horizontal portion 2'. Here is what Neri says these two distinct regions are for:

... the slanted front portion 5' of the mentioned openings will allow a paint can 8 to be properly arranged on a shelf element 9 of the stirring apparatus, whereas the horizontal portion 5" of the same opening will restrain or lock protecting or cam portions formed on the cover 10 of the paint can.

(Col. 2, lines 38-43.)

Comparing the two regions of the opening, Neri states:

The horizontal portion 5" of that same opening, on the other hand, has a profile which is defined by corresponding broken lines so as to provide, in succession, corresponding rectangular seats indicated respectively at 15, 15' and 15" and having increasing widths.

(Col. 2, lines 49-53.)

As shown in FIG. 4 of Neri, when the can with cover is inserted on the shelf, the locking element (spout) 16 mates with the final seat 15" and the cover-locking cams mate with the other seats so that the can is "firmly restrain[ed]", per the summary of the invention (col. 1, line 58), in a single orientation about the central stirring axis of the covered can. Thus, Neri describes a system for firmly locking the cover in a single orientation. Indeed, to accommodate different size spouts, Neri proposes that "for the above mentioned inner-most seat, small width variations can be provided, by using suitable spacer elements." (Col. 2, line 63-64). This one would assume would be for the purpose of insuring a match between the notch 15" and the spout width, so that it is firmly locked in place, as shown in FIG. 4 of Neri.

In any case, it is clear that Neri teaches a sort of docking station where the covered can can only be inserted and properly seated in the stirring apparatus in one fixed orientation of the can about its axis, so that the spout aligns with, mates with and is trapped between the sides of the notch 15" and the other notches catch the cams. The can cover so inserted in Neri is incapable of being rotated about its axis in either direction, i.e., clockwise or counterclockwise. A problem with Neri is that care must be exercised in inserting the can to make sure it is in a single fixed orientation as it is being inserted so that the can cover will properly mate with the matching profile of the openings.

Applicant : Michel Lesimple  
Serial No. : 09/648,588  
Filed : August 25, 2000  
Page : 5

Attorney's Docket No.: 10767-003001 / 870-F 51299-  
La/

DRAFT

In contrast, the invention, as recited in proposed amended claims 15 and 29, recites a downwardly extending interference arm that acts as a stop by interfering with the cover so as to prevent (any further) rotation of the cover in the single direction of the stirrer's rotation. This is accomplished not by firmly docking the can cover with a mating structure to firmly lock the can in one orientation, but by merely stopping the can's possible rotation in the direction of the rotation of the stirrer. The covered can is free to be inserted in other orientations, whereupon the rotation of the can will eventually be stopped by the interference arm. This arrangement frees the user from having to orient the can in a single unique orientation while inserting it on the shelf and eliminates the need for other interfering obstructions to lock the can in place.

**Support for the limitation in claims 15 and 29, as amended:**

An stated objective of the Lesimple patent is to avoid the projecting pins previously used on shelves for "securely retaining the base of the can" and "locking the cans." Column 1, lines, 19 and 24.) The fact that the invention may be achieved with a single interference arm is expressly stated at column 4, lines 1-4. The fact that the can is free to be inserted in other than its final orientation is explicitly illustrated by the following passage of Lesimple:

As soon as the plate 22 is driven in rotation by the small blade 4 and fingers 23, the can 16 is possibly rotated a little bit, but in any case, one attachment 19, for example the pouring nose, will limit the possible rotation of the can of which only the shaft 18 continues to be driven, which is shown in FIGS. 6 and 7.

Column 4, lines 61-65.

The possibility of this pre-interference rotation exists because the region between the stirring head and the shelf is free of obstructions that would restrain insertion of the can or the cover to a single orientation on the shelf. Indeed, one of the noted advantages of the invention is that the shelves themselves can be completely smooth. (Col. 1, lines 31-33.) In addition, the insertion of the can is not limited to a single orientation because even if the can is inserted in a different orientation and rotates with the stirrer, it will come to a final resting place in a single orientation when the cover hits the interference arm.

Thus, in view of the foregoing remarks and observations, it is submitted that the language of amended claims 15 and 29 is fully supported and defines patentably over the teachings of Neri.

Applicant : Michel Lesimple  
Serial No. : 09/648,588  
Filed : August 25, 2000  
Page : 6

Attorney's Docket No.: 10767-003001 / 870-F 51299-  
La/

DRAFT

Attached is a marked-up version of the changes being made by the current amendment.

Applicant asks that all claims be allowed. Enclosed is a Enter \$ amount check for excess claim fees. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: \_\_\_\_\_

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Applicant : Michel Lesimple  
Serial No. : 09/648,588  
Filed : August 25, 2000  
Page : 7

Attorney's Docket No.: 10767-003001 / 870-F 51299-  
La/

DRAFT

Version with markings to show changes made

In the claims:

Claims 38-50, inclusive have been cancelled.

Claims 15, 18, 29, 35 and 51 have been amended as follows:

15. (twice amended) A system for stirring paint in an insertable can, comprising:  
a can cover with a rotatable paint stirrer [that includes a rotatable drive shaft];  
a can support shelf;

a stirring head positioned above the shelf that engages the stirrer when the can is inserted on the shelf, and

an interference arm extending from above the location of the can downwardly toward the shelf that mechanically interferes with the cover as a stop against rotation in a single direction to prevent rotation of the cover in the same direction of rotation of the stirrer [as the stirrer rotates],

a region between the stirring head and the shelf for inserting a can for stirring, the region being free of obstructions that would restrain insertion of the can or the cover to a single orientation on the shelf.

18. (amended) The system of claim 15 wherein the interference arm is pivotable with respect to the stirring head.

29. (twice amended) A system for stirring paint in a can, comprising:

a can cover with a paint stirrer that includes a rotatable drive shaft;

a can support shelf; and

a stirring head positioned above the shelf, the stirring head comprising a body including an interference arm that extends downwardly toward the shelf that prevents rotation of the cover as the stirrer rotates by mechanically interfering with the cover as a stop against rotation in a single direction to prevent rotation of the cover in the same direction of rotation of the stirrer.  
and

Applicant : Michel Lesimple  
Serial No. : 09/648,588  
Filed : August 25, 2000  
Page : 8

Attorney's Docket No.: 10767-003001 / 870-F 51299-  
La/

DRAFT

an engaging member for engaging a portion of the drive shaft extending above the can cover,

a region between the stirring head and the shelf for inserting a can for stirring, the region being free of obstructions that would restrain insertion of the can or the cover to a single orientation on the shelf

35. (amended) The system of claim 30 or 32 wherein the interference arm is pivotable with respect to the stirring head.

51. (amended) The system of any one of claims 15, 16 or 29[, or the head of claims 38 or 44] wherein the head is connected to a hollow shelf arranged above the paint can cover.